

C Rowe-Evans Esq
Yorkshire Coast BID Limited
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YO11 2PW
6 June 2022

Dear Mr Rowe-Evans

YORKSHIRE COAST BID LIMITED (“YCBID”)

I write to you as Chairman of the Board of YCBID. You may be aware that I have incurred substantial professional fees in investigating Scarborough Borough Council (“the Council”) and its relationship with YCBID.

I have recently been examining your accounts for the year ended 31 July 2020. I have noted that according to those accounts you have only spent £154,923 on “Project costs” with £153,261 spent on Administrative expenses. I also note that in your first year of operation you spent £21,403 on public relations. I am struggling to understand what benefit the YCBID has provided to those businesses who have been charged the Levy by the Council. Perhaps you will explain?

I will move on to the more serious matter. **Your VAT Registration.** Whilst it is not up to me to direct you what to do I strongly suggest that you raise the following with your accountants, Smailes Goldie (formerly Moore), as if this matter is not resolved YCBID may lose its VAT Registered status and **will have to repay all the VAT it has claimed on its expenses.**

It appears that your Board of Directors and the Council do not understand Clause 4 of the Operating Agreement dated 31 July 2019. The Councils have maintained and continued to state that they act as the “*Collecting Agent*” for YCBID. Your accounts show as Turnover on the detailed Income and Expenditure Account as “*Levies Receivable*”. Your accounting policy for Turnover, as disclosed in your published accounts that are on public record at Companies House, is stated as follows:

“Turnover comprises the fair value of levy charges raised on businesses within the BID area, and other voluntary contributions received from local businesses and individuals. Turnover is shown net of value added tax.”

I also note that your accounts for the year ended 31 July 2020 record collection costs within your cost of sales of £49,282. Your accounts are consistent with the position the Council has maintained – that they are your Agent.

However, the consequence of this position is that YCBID is not able to be VAT Registered, simply because the levy that you state is your turnover cannot be subject to VAT. This means that all the VAT you have charged has been in error and more seriously all the VAT reclaimed on expenditure cannot be reclaimed.

Your position is compounded by the narrative that is recorded on the invoices you appear to send to the Council. For example your invoice number 6 that was paid on 29/8/2019 for gross amount of £325,435.20 was described as being for “August levy transfer”. Other invoices refer to

“Collections up to 4.11.2020” or similar. Again this indicates that the Council is your Agent and compounds your VAT problem. This information has been supplied in reply to a Freedom of Information request (copy attached).

If you and the Council understood your Operating agreement, in particular Clause 4, you would realise that YCBID does not have Levy income as its Turnover. YCBID has contractually agreed to supply a service to the Council of “Administering the BID arrangements”. This is what your accounts **should** state as your Turnover and what your invoices should state as the VAT-able service.

Of course the narrative you have shown on your invoices does not state this and furthermore does not meet the requirements for a valid VAT invoice by incorrectly describing the service provided.

In addition, according to the Operating Agreement, the YCBID invoice to the Council is “... net of costs of collection”. Therefore these costs should not be reflected in your accounts. By accounting for them in this manner it emphasises the point that the Council is acting as your Agent. Clearly this is not what was contractually intended and this problem was identified in the Mosaic feasibility report which states as follows on page 23:

“More importantly it will also ensure that the DBID Company can make provision for VAT. The DBID levy bills sent out by the Local Authority to individual payers cannot charge VAT. However the DBID Company, which is in most cases, limited by guarantee would be required to pay VAT on its activities. This would normally mean that it would lose income as it would have to make provision for VAT payments at the prevailing rate without the ability to be able to charge it on the levy bills. Discussions with Customs & Excise have provided a solution whereby specific wording in the Operating Agreement will allow the DBID Company to invoice the Local Authority for the amount of BID Levy collected plus VAT. The Local Authority will then be able to claim this VAT back via the Section 33 mechanism.”

You must appreciate that it is not sufficient to just have the wording in the Agreement, you must also apply and act in accordance with the agreement. Otherwise the agreement is just a “sham”.

As I mentioned earlier, it is not for me to advise you how to proceed from here, but I strongly recommend that you discuss with your accountants how this situation can be rectified.

Finally, I note that your accounts are not subject to any form of professional audit. Whilst I accept that YCBID does fall below the statutory thresholds that require an audit, it would be good practice for the accounts to be audited simply because you are in effect administering public money. Perhaps if an audit had been carried out the problems I have drawn to your attention would not have occurred.

By way of comparison, if YCBID was a registered charity it would be required to have its accounts subject to a statutory audit as the turnover threshold of £1m has been exceeded.

I have written to you in good faith and I trust that you will reply in the same terms.

Yours sincerely

James Corrigan